

HARRIS COUNTY CAUSE NO. 2015-37067
WEBB COUNTY CAUSE NO. 2015-CV2-002272-D5
TARRANT COUNTY CAUSE NO. 048-000001-15

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FILED
WEBB COUNTY, TEXAS
BY: [Signature]
CLERK OF THE DISTRICT COURT
& COUNTY COURTS AT LAW

IN RE: § IN THE DISTRICT COURT
FARMERS INSURANCE § OF HARRIS COUNTY (281st), TEXAS
COMPANY WIND/HAIL STORM § WEBB COUNTY (341st), TEXAS AND
LITIGATION § TARRANT COUNTY (48th), TEXAS

CASE MANAGEMENT ORDER

The Multidistrict Litigation Panel issued an Order dated April 7, 2015, in MDL Docket No. 14-0882, establishing three (3) MDL Pretrial Courts and assigning cases to the Hon. Elma Teresa Salinas Ender, retired Judge of the 341st District Court of Webb County, the Hon. Sylvia A. Matthews, Judge of the 281st District Court of Harris County, and the Hon. David L. Evans, Judge of the 48th District Court of Tarrant County (the "Pretrial Courts").

According to the MDL Panel's Order, the three Pretrial Courts decide all common pretrial issues together as a panel and decide case-specific issues as individual pretrial courts.

After considering the proposals submitted by Farmers Insurance Company and by Plaintiffs (collectively referred to as "the Parties"), the Pretrial Courts, acting as a panel, find that the expeditious and efficient process of pretrial matters is necessary to prepare these cases for trial. Therefore, the Pretrial Courts ORDER that the following will govern the management of the cases pending in the Pretrial Courts.

IT IS SPECIFICALLY ORDERED AS FOLLOWS:

Scope. This Case Management Order shall apply to all cases pending in the three MDL Pretrial Courts for the Farmers Insurance Company Wind/Hail Storm Litigation (Harris County Cause No. 2015-37067, Webb County Cause No. 2015-CV2-002272-D5, and Tarrant County Cause No. 048-000001-15) and all cases that are transferred to the three MDL Pretrial Courts.

Stay. Cases pending in the Pretrial Courts are stayed unless otherwise provided in this Order.

Mediation. All cases pending in the Pretrial Courts shall be mediated, unless settled prior to mediation. Within 60 days of the signing of this Order or the date a case is transferred to a Pretrial Court, whichever is later, the Parties shall agree on a mediator and a date for mediation for the case.

The mediation shall occur within 120 days after the mediator is selected, unless otherwise agreed by the Parties. Plaintiff and corporate representative for Defendant shall be physically present during the mediation, unless otherwise agreed.

Exchange of Information. No less than 30 days before the mediation date, the Parties shall exchange information and documentation pertaining to the wind/hail storm claim, including the following: estimates regarding the damages claimed; repair receipts or invoices; wind/hail claim payments received by Plaintiff(s); photographs regarding the damages claimed; expert reports; engineering reports; the applicable insurance policy; non-privileged portion of the claim file and the adjuster's file (including all claim diary notes, activity logs, loss notes, and email correspondence regarding the insurance claim); payment ledger; payment log; and proof of payment from the carrier, if any.

If Farmers is not in possession of the adjusting company's file, and the file is not available from another party, then Farmers shall use its best efforts to obtain the adjuster's file so that it may be included in the exchange of information.

Property Inspection. In preparation for mediation, Defendants may inspect the property involved, at a time agreed upon by the Parties. If mediation is not successful, the Defendants may re-inspect the property, at a time agreed upon by the Parties.

Impasse. Impasse may be declared by a) a mediator, in writing; or b) written agreement of the parties; or c) order of the appropriate Pretrial Court. In either a) or b), Defendant shall file a Notice of Impasse in the Pretrial Court where the case is pending. The documentation evidencing impasse shall be attached.

Either Plaintiff or Defendant may move for transfer of the physical or electronic file from the originating trial court to the appropriate Pretrial Court. When the file is transferred, a new file with a new cause number will be opened by the clerk of that Pretrial Court.

Post-Impasse.

Docket Control Order. Thirty (30) days after impasse is declared, the stay shall be lifted and the Parties shall enter into an Agreed Docket Control Order (“DCO”). The DCO shall include a trial date and interim deadlines, including expert designation deadlines and a discovery cut-off. After the stay is lifted, discovery may proceed. Discovery shall include Rule 194 disclosures, Case-Specific Master Discovery, Institutional Master Discovery, and depositions.

Appraisal. Either party may demand appraisal according to the policy provisions. If the Parties cannot agree on an umpire, the Parties shall move for appointment of an umpire by the Pretrial Court where the case is pending. If the claims are not resolved by the appraisal, either Plaintiff or Defendant may elect to mediate.

Mediation Expert Reports. Expert reports used for settlement purposes only shall not be discoverable unless the expert is designated as a witness to testify at the time of trial or the report is otherwise made discoverable.

Dispositive Motions. No case-specific dispositive motions may be heard during the time a case is stayed. The stay will not prevent the filing or hearing of dispositive motions concerning pretrial issues for the Pretrial Courts to decide acting as a panel.

Liaison Counsel. Counsel for Plaintiffs and counsel for Farmers Insurance may establish Liaison Counsel. Each side shall notify the MDL Courts of their respective designations within 30 days of the signing of this Order.

Requests for Relief. Motions that require rulings from the Pretrial Courts sitting as a panel shall include the style for all three courts (as indicated above). Motions that are case specific shall include the style of only the Pretrial Court where the case is pending.

Application of Rules. The Texas Rules of Civil Procedure shall apply to these proceedings.

Posting. This Order shall be posted to the website of the 281st Judicial District Court at www.justex.net/civil/281.

SIGNED this 26th day of July, 2015



Hon. Elma Teresa Salinas Ender ✕



Hon. David L. Evans ✕



Hon. Sylvia A. Matthews

*by permission /SAM